



Linda S. Adams
*Secretary for
Environmental Protection*

State Water Resources Control Board

Division of Water Rights

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Arnold Schwarzenegger
Governor

MITIGATED NEGATIVE DECLARATION

Pursuant to Section 21080(c)
Public Resources Code

To: Office of Planning & Research State Clearinghouse 1400 Tenth Street Sacramento, CA 95814	From: State Water Resources Control Board Division of Water Rights P.O. Box 2000 Sacramento, CA 95812-2000
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PROJECT TITLE: Petition for Extension of Time

PERMIT NO: 20563

APPLICATION NO: 29594

APPLICANT: Dr. Larry Londer
P.O. Box 14
Philo, CA 95466

PROJECT DESCRIPTION: The applicant has a water right Permit 20563 (Application 29594) for the construction of a 24-foot dam forming a 38 acre-foot onstream reservoir with a surface area of 2.75 acres. This project is a petition to allow additional time to complete the previously approved project and to put the water to full and beneficial use. Water will be collected to storage from two points of diversion (POD). Water diverted from POD #1 will be pumped from the Navarro River via a 6-inch pipe to the reservoir. The pump will be a sump type with a maximum discharge rate of 2.0 cubic feet per second (cfs). POD #2 is an unnamed stream that flows into the reservoir. Water will be used for irrigation, heat control, and frost protection of 30 acres of vineyard, recreation, and fish and wildlife enhancement and preservation. The project is located in Mendocino County approximately 4 miles northwest of the town of Philo.

Determination: The State Water Resources Control Board has determined that the above proposed project will have a less-than-significant effect on the environment for the reasons specified in the attached Initial Study.

PERMIT CONDITIONS;

Water is to be appropriated from an unnamed stream tributary to the Navarro River and the Navarro River thence the Pacific Ocean in Mendocino County.

The location of POD #1 by the California Coordinate System of 1927 in Zone 2 is North 523,700 feet and East 1,575,400 feet in the SE ¼ of the SE ¼ of Section 3, Township 14N, Range 15W, MDB&M. POD #2 is located North 524,200 feet and East 1,576,350 feet in the SE ¼ of the SE ¼ of Section 3 Township 14N, Range 15W, MDB&M.

Amount and Season: 71 acre-feet per annum to be appropriated between December 15 and March 31 of the following year.

Total Annual Use: 71 acre-feet.

Purpose of Use: Irrigation, heat control, frost protection, recreation, and fish and wildlife enhancement.

The place of use will be within the SE ¼ of the SE ¼, the NW ¼ of the SE ¼, and the SW ¼ of the SE ¼ of Section 3, Township 14N, Range 15W, MDB&M.

PERMIT TERMS:

- **Quantity - Storage, single.** *The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 71 acre-feet per annum to be collected from **December 15** of each year to **March 31** of the succeeding year as follows: 38 acre-feet per annum in Reservoir No. 1 and replenishment of 33 acre-feet per annum.*
- **Fish and Wildlife Bypass, POD No. 1.** *For the protection of fish and wildlife and instream uses, when diverting water from point of diversion (POD) No. 1, Permittee shall bypass the total stream flow at POD No. 1 whenever the flow in the Navarro River is less than 550 cubic feet per second (cfs) as measured at the United States Geological Survey (USGS) gage on the Navarro River or 339 cfs as measured at POD No.1.*
- **Fish and Wildlife Bypass, POD No. 2 (Reservoir No. 1).** *Permittee shall install and maintain a bypass system that captures inflow of the Unnamed Stream above the reservoir and bypasses the captured flow downstream into the natural stream channel below the dam. Permittee shall install the bypass system as shown on the map dated September 22, 1999, prepared by Permittee's engineer. From April 1 to December 14 of each year, Permittee shall block any inflow into the reservoir from the Unnamed Stream by placing a steel cover plate over the inlet pipe to the reservoir. Any inflow during this period shall be bypassed unimpeded to the stream channel below the dam via the 12-inch bypass pipeline. Permittee shall not divert this bypassed water under any basis of right. From December 15 of each year to March 31 of the succeeding year, if the flow in the Navarro River is less than 40 cubic feet per second as measured at the USGS Navarro River gage, Permittee shall block any inflow into the reservoir from the Unnamed Stream by placing a steel cover plate over the inlet pipe to the reservoir. All inflow during this condition shall be bypassed unimpeded to the stream channel below the dam via the 12-inch bypass pipeline. Permittee shall*

not divert this bypassed water under any basis of right.

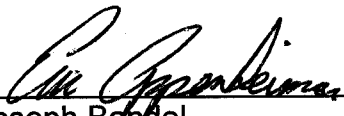
- **Protection of Fish from Entrainment.** No water shall be diverted under this permit until Permittee has constructed a fish screen or has proposed and constructed an alternative. The fish screen shall be to the satisfaction of the Department of Fish and Game (DFG) and shall consist of mesh having openings no larger than 5/32 inch. In lieu of such screening, perforated pipe or a plate with perforations of 5/32 inch or less in diameter may be used. Screens and/or perforated pipe shall be cleaned regularly or otherwise designed so that approach velocities of water entering the intake pipe shall not exceed 0.33 foot per second. Any alternative must comply with DFG's criteria and receive their written approval. Permittee shall submit a copy of DFG's written approval of the plans and design calculations to the Division of Water Rights within 30 days from the date of approval. Construction, operation, and maintenance of any required facility are the responsibility of Permittee. If the fish screens or any alternative(s) is (are) rendered inoperative for any reason, Permittee shall notify the Chief of the Division of Water Rights, immediately and shall restore the equipment as soon as possible.
- **Cultural Resources Protection.** Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; ground stone implements (grinding slabs, mortars and pestles) and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic and metal objects; milled and split lumber; and structure and feature remains such as building foundations, privy pits, wells and dumps; and old trails. The Chief of the Division of Water Rights (Division Chief) shall be notified of the discovery and a professional archeologist shall be retained by Permittee to evaluate the find and recommend appropriate mitigation measures. Proposed mitigation measures shall be submitted to the Division Chief for approval. Project-related activities shall not resume within 100 feet of the find until all approved mitigation measures have been completed to the satisfaction of the Division Chief.

Contact Person: Joseph Bandel

Telephone: (916) 552-9286

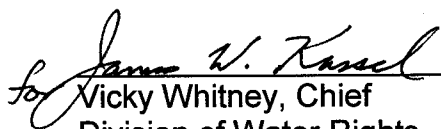
Email: jbandel@waterboards.ca.gov

APPROVAL OF THE ABOVE IS RECOMMENDED BY:

For  3/7/07
Joseph Bandel Date
Environmental Scientist

 3/12/2007
Steven Herrera, Chief Date
Permitting Section

APPROVED

For  5/22/07
Vicky Whitney, Chief Date
Division of Water Rights

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

In the Matter of Permit 20563 (Application 29594)
Dr. Larry Londer

**ORDER APPROVING PETITION FOR EXTENSION OF TIME
AND AMENDING THE PERMIT**

SOURCE: Navarro River and Unnamed Stream tributary to Navarro River
COUNTY: Mendocino

WHEREAS:

1. The State Water Resources Control Board (State Water Board), Division of Water Rights (Division) issued Permit 20563 to Betty E. Ingram and Barbara M. McGuiness as joint permittees (Permittees) on October 7, 1991, pursuant to Application 29594 and subsequently assigned the permit to Dr. Larry Londer (Successor-Permittee) on May 10, 2000.
2. The permit required that construction work be completed by December 31, 1994, and that the water be applied to the authorized uses by December 31, 1995.
3. The Division conducted a compliance inspection on April 20, 1999 and found that the place of use was not fully developed, the point of diversion on the Navarro River was incomplete, and water had not been used for purposes of frost protection, heat control or irrigation. The inspection also found that the dam had been constructed without an outlet pipe as required by Permit 20563, and the Permittees had no satisfactory measuring devices to ensure compliance with the existing terms and conditions of the permit. On March 22, 2000, the Division issued an order (March 2000 Order) to amend Permit 20563 to require the Permittees to install and operate a bypass system in lieu of the outlet pipe and measuring devices required by the permit. A term for the protection of endangered species was also added to Permit 20563 by the March 2000 Order.
4. Permittees filed a petition for an extension of time within which to develop the project and apply the water to the proposed use with the State Water Board on November 15, 1999. Public notice of the petition was issued on April 14, 2000. Protests were received from the Sierra Club Mendocino Group and from the Navarro Watershed Protection Association (NWP). Both protests were based on public trust and environmental concerns. Both protests were rejected for failure to submit supporting information specific to the petition for extension of time. On October 30, 2000 the Division issued an order (October 2000 Order) extending the time to December 31, 2010 for complete application of the water to the authorized use.
5. On November 13, 2000, NWP petitioned the State Water Board for reconsideration of the October 2000 Order. On January 25, 2001, the State Water Board set aside the October 2000 Order and directed the Division to consider whether and under what circumstances it would be in the public interest to approve the petition for extension of time in light of the potential impacts to

fishery resources that may result if the petition is approved. (Order WR 2001-02.) The State Water Board delegated to the Division Chief the authority to take action on the petition, consistent with applicable requirements provided that a hearing is not required.

6. The State Water Board may grant an extension of time within which to commence or complete construction work or apply water to beneficial use upon a showing of good cause. (Wat. Code, § 1398.) Permittee must show that (1) due diligence has been exercised; (2) failure to comply with previous time requirements has been occasioned by obstacles which could not be reasonably avoided; and (3) satisfactory progress will be made if an extension of time is granted. Lack of finances, occupation with other work, physical disability, and other conditions incident to the person and not to the enterprise will not generally be accepted as good cause for delay.
7. Permittees and Successor-Permittee have shown that reasonable due diligence has been exercised and that satisfactory progress will be made if a time extension is granted. Since the date of permit issuance, Permittees have filed substantially all annual progress reports. Progress reports for 1994-1997 indicated that construction was complete but that the water was not yet being used. The Division's April 20, 1999 inspection report concluded that (1) the place of use was not fully developed; (2) the water had been diverted only at POD No. 2; and (3) use was limited to recreation and fish and wildlife preservation/enhancement. The report noted that diversion was not as yet occurring from POD No. 1 on the Navarro River, and certain permit terms related to implementing a bypass had not been implemented. By letter dated July 2, 1999, the Division advised Permittees to file a petition for extension of time in order to complete the project, comply with all permit terms and avoid enforcement action.
8. On May 10, 2000, Permittees assigned Permit 20563 to Successor-Permittee. Since receipt of the Division's July 2, 1999 compliance letter, Successor-Permittee has accepted and proceeded to implement the terms of the March 2000 Order to install and operate an alternative bypass system with appropriate record-keeping requirements. On July 18, 2000, Successor-Permittee submitted photographic evidence of completion of the bypass system. Progress reports dated 2001 indicated that the irrigation system for the vineyard was being installed. The progress report filed by Successor-Permittee in 2002 indicated that the work to install a pump at POD No. 1 on the Navarro River was complete. Based on the annual progress reports filed since permit issuance and the conclusions of the April 20, 1999 compliance inspection and documented efforts to comply with revised permit terms, reasonable due diligence was exercised to support filing of the time extension petition.
9. Successor-Permittee has shown that failure to comply with previous time requirements has been occasioned by obstacles that could not be reasonably avoided. The 1999 inspection report noted that one of the Permittees, the managing partner, had died and the remaining partner had been living outside the state. In consideration of the above, the Division advised that Permittees should file a petition for extension of time in order to achieve voluntary compliance and avoid enforcement action. Successor-Permittee has shown good cause for the time extension.
10. The State Water Board will grant an extension of time within which to commence or complete construction work or apply water to beneficial use only upon such conditions determined to be in the public interest. The Division has considered whether approval of the petition for time extension would be in the public interest in light of potential environmental impacts, including impacts to fishery resources. The Division concludes that the petition should be approved contingent upon the inclusion of the following term(s) to protect the public interest in an amended permit:

- For the protection of fish and wildlife and in stream uses, when diverting water from point of diversion (POD No. 1), Permittee shall bypass the total stream flow at POD No. 1 whenever the flow in the Navarro River is less than 550 cubic feet per second (cfs) as measured at the United States Geological Survey (USGS) gage on the Navarro River or 339 cfs as measured at the POD. The maximum rate of diversion shall not exceed 2.0 cfs.
- Permittee shall install and maintain a bypass system that captures inflow of the Unnamed Stream above the reservoir (POD No. 2) and bypasses the captured flow downstream into the natural stream channel below the dam. Permittee shall install the bypass system as shown on the map dated September 22, 1999, prepared by the Permittee's engineer. From April 1 to December 14 of each year, Permittee shall block any inflow into the reservoir from the Unnamed Stream by placing a steel cover plate over the inlet pipe to the reservoir. Any inflow during this period shall be bypassed unimpeded to the stream channel below the dam via the 12-inch bypass pipeline. Permittee shall not divert this bypassed water under any basis of right. From December 15 of each year to March 31 of the succeeding year, if the flow in the Navarro River is less than 40 cubic feet per second, as measured at the USGS Navarro River gage, Permittee shall block any inflow into the reservoir from the Unnamed Stream by placing a steel cover plate over the inlet pipe to the reservoir. All inflow during this condition shall be bypassed unimpeded to the stream channel below the dam via the 12-inch bypass pipeline. Permittee shall not divert this bypassed water under any basis of right.
- No water shall be diverted under this permit until Permittee has constructed a fish screen or has proposed and constructed an alternative. The fish screen shall be to the satisfaction of the Department of Fish and Game (DFG) and shall consist of mesh having openings no larger than 5/32 inch. In lieu of such screening, perforated pipe or a plate with perforations of 5/32 inch or less in diameter may be used. Screens and/or perforated pipe shall be cleaned regularly or otherwise designed so that approach velocities of water entering the intake pipe shall not exceed 0.33 foot per second. Any alternative must comply with the DFG's criteria and receive their written approval. Permittee shall submit a copy of DFG's written approval of the plans and design calculations to the Division of Water Rights within 30 days from the date of approval. Construction, operation, and maintenance of any required facility are the responsibility of Permittee. If the fish screens or any alternative(s) is (are) rendered inoperative for any reason, Permittee shall notify the Chief of the Division of Water Rights, immediately and shall restore the equipment as soon as possible.
- The season of diversion shall be from December 15 to March 31 of the following year.
- Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; ground stone implements (grinding slabs, mortars and pestles) and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic and metal objects; milled and split lumber; and structure and feature remains such as building foundations, privy pits, wells and dumps; and old trails. The Chief of the Division of Water Rights (Division Chief) shall be notified of the discovery and a professional archeologist shall be retained by the Permittee to evaluate the find and recommend appropriate mitigation measures. Proposed mitigation measures shall be submitted to the Division Chief for approval. Project-related activities shall not resume within 100 feet of the find until all approved mitigation measures have been completed to the satisfaction of the Division Chief.

- Permittee may not divert any water for use on the place of use authorized by this permit under basis of riparian right. With the Chief of the Division of Water Right's (Division Chief) approval, this term may be modified, and Permittee may use water under basis of riparian right on the authorized place of use, provided that Permittee submits reliable evidence to the Division Chief quantifying the amount of water that Permittee likely would have used under the basis of riparian right absent the appropriation authorized by this permit. The Division Chief is hereby authorized to approve or reject any proposal by Permittee to use water under the basis of riparian right on the place of use authorized by this permit.
11. To ensure compliance with Water Code section 1605, a permit term should be added requiring Permittee to maintain water diversion and use records.
 12. Pursuant to Resolution No. 2002-0106, the State Water Board has delegated authority to the Division Chief to administer the duties required under the California Environmental Quality Act (CEQA). (Attachment to Resolution No. 2002-0106, § 2.9.) The Division Chief has redelegated this authority to the Assistant Division Chief, and to the Chief of the Permitting Section and the Chief of the Hearings and Special Projects Section in the absence of the Assistant Division Chief. (Redelegations memo from Edward Anton (June 19, 2003).)
 13. On or about July 10, 2002, the Division provided notice of intent to adopt a mitigated negative declaration (SCH No.2002072033) for the project. (See Cal. Code Regs., tit. 14, § 15072.) In order to mitigate for the potential environmental impacts of the project, the Division proposed mitigation measures substantially similar to the mitigation measures set forth in paragraph 10, above, and the petitioner agreed to incorporate those measures into the project.
 14. The California Department of Fish and Game (DFG) sent a letter dated August 15, 2002, regarding the Negative Declaration for the Petition for Extension of Time for water right Permit 20563 (Application 29594). DFG reviewed the Initial Study/Negative Declaration and provided comments focusing on the project components, biological resources, potential impacts including cumulative impacts to those biological resources, and mitigation necessary to reduce those impacts to a less than significant level. The letter stated that to avoid impacts to aquatic resources, onstream storage facilities must meet the exemption criteria in the Department of Fish and Game/ National Marine Fisheries Service (NMFS) Draft Guidelines for Maintaining Instream Flows to Protect Fisheries Resources Downstream of Water Diversions in Mid-California Streams, dated June 17, 2002 (Draft Guidelines) for the location of onstream reservoirs. However, because the onstream reservoir was constructed in accordance with the construction deadline contained in the permit, the approval of the time extension petition does not amount to approval of the onstream reservoir. The letter also stated that the place of use being irrigated with water diverted under riparian right and used outside the December 15 to March 31 season would constitute a potentially significant impact from this project. However, the Permittee has directly diverted water from the Navarro River under claim of riparian right in the past, as documented by the April 20, 1999 Compliance Inspection Report. Continued diversion under riparian right that would take place in the absence of Permittee's storage project would be part of the CEQA baseline and therefore would not be a significant impact of this petition for extension of time. In addition, the last permit term in paragraph 10, limits the Permittee from diverting under riparian right until the Permittee has submitted reliable evidence quantifying the amount of water that Permittee likely would have used under the basis of riparian right absent the appropriation authorized by the permit. The last concern in the DFG letter regarded the lack of a cumulative impacts analysis. However, since the letter was written, a cumulative impacts analysis report has been prepared, as discussed below. On December 18, 2006 a representative from DFG agreed

that the inclusion of the riparian term, the cumulative impacts analysis and the terms limiting the season of diversion and providing bypass flows were sufficient to address the DFG's concerns.

15. On September 27, 2006, in accordance with the Draft Guidelines, the Division prepared a cumulative flow impairment index (CFII) hydrologic analysis to identify the extent of potential cumulative impacts of the project on fisheries resources within the Navarro River watershed. The analysis showed the CFII at the POD on the Navarro River is 1.39%. Because the CFII is less than 5%, there is little chance of significant cumulative impacts due to the diversion, according to the Draft Guidelines. A representative from DFG advised the Division that additional CFII analysis at POD No. 2 or any other point of interest downstream of either POD No. 1 or POD No. 2 was unnecessary. The rationale behind this determination was that POD No. 2 captures a very small portion (6.63 acres) of the watershed and is the only diversion on the Unnamed Stream. Accordingly, calculation of the CFII at POD No. 2 is unnecessary to determine that the cumulative impacts of this diversion to fisheries resources in the Unnamed Stream are insignificant. CFII's were not calculated on any additional points on the Navarro River because, with the inclusion of the terms specified in paragraph 10 of this order, the project complies with a November 12, 2003, letter from the DFG and NMFS. The November 12, 2003 letter recommends that one approach for addressing the potential impacts to the mainstem Navarro River is to require a minimum bypass flow of 325 cubic feet per second (cfs) at the USGS Navarro River gage near Navarro. As discussed below, this order conditions the approval of this petition for extension of time on the maintenance of a bypass (550 cfs at the USGS Navarro River gage or 339 cfs at POD No. 1) consistent with what the November 12, 2003 letter recommends. Based on the findings of the CFII analysis and in consultation with DFG, the Division concludes that there would be no significant cumulative impacts resulting from the approval of the time extension petition.
16. The Draft Guidelines also recommend that diverters be required to bypass flows equivalent to the February median flow. In this case, the calculated February median flow at the USGS Navarro River Gage is 593 cfs and the February median flow at POD No. 1 is 381 cfs. In the November 12, 2003 letter; however, DFG and NMFS recommended a 325 cfs bypass at the USGS Navarro River gage. The petitioner has agreed to a bypass of 550 cfs at the USGS Navarro River gage or 339 cfs at POD No.1. This bypass is conservative and will ensure protection of instream fisheries resources because the bypass is significantly more than the 325 cfs bypass at the USGS Navarro River gage recommended in the November 12, 2003 letter from DFG and NMFS and is also very close to the calculated February median flow. A representative from DFG has confirmed that the 550 cfs bypass at the USGS Navarro River Gage and the 339 cfs bypass at POD No. 1 is protective of instream flows for fisheries resources. With respect to POD No. 2, the diversion is located high in the watershed, with only 6.63 acres of watershed above the POD, and there are no other authorized diversions on the Unnamed Stream. The onstream reservoir is located on a Class III stream and has passive bypass structures that are sufficient to bypass the flow from the Unnamed Stream outside of the diversion season. As a result, the Division concludes, and a representative from DFG has agreed, that further bypass requirements for POD No. 2 are not necessary to reduce the impacts of the diversion. With the inclusion of the terms specified in paragraph 10 of this order, which include shortening the diversion season to December 15- March 31 and providing increased bypass flows at POD No. 1, the impacts to the environment will be less than significant if the petition for extension of time is granted.
17. The mitigated negative declaration discussed above reflects the Division's independent judgment and analysis. After considering the document and comments received during the public review process, the Division hereby determines that the proposed project, with mitigation measures, will not have a significant effect on the environment. The mitigated negative declaration is hereby

adopted. The documents or other material that constitute the record are located in the Division's office located in Sacramento, California. The Division will file a Notice of Determination within five days from the issuance of this Order.

NOW, THEREFORE, IT IS ORDERED THAT THE STATE WATER BOARD, DIVISION OF WATER RIGHTS, HEREBY APPROVES THE PETITION FOR EXTENSION OF TIME. PERMIT 20563, AS AMENDED BY ORDER DATED MARCH 22, 2000 IS FURTHER AMENDED TO READ AS FOLLOWS:

1. Term 5 of the Permit 20563 as amended by Order dated March 22, 2000 ("Permit") shall be deleted and the following terms added:

Quantity- Storage, Multiple. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 71 acre-feet per annum to be collected from December 15 of each year to March 31 of the succeeding year as follows: 38 acre-feet per annum in Reservoir No. 1 and replenishment of 33 acre-feet per annum.

No Offseason Storage. This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.

Rate of Diversion to Offstream Storage. The maximum rate of diversion from POD No. 1 to offstream storage shall not exceed 2 cubic feet per second.

2. Terms 8 and 9 of the Permit shall be deleted and the following term added:

Complete Construction and Use. Construction work and complete application of the water to the authorized uses shall be prosecuted with reasonable diligence and completed by December 31, 2010.

3. Term 15 of the Permit shall be deleted and the following term added:

Fish and Wildlife Bypass, POD No. 2 (Reservoir No. 1). Permittee shall install and maintain a bypass system that captures inflow of the Unnamed Stream above the reservoir and bypasses the captured flow downstream into the natural stream channel below the dam. Permittee shall install the bypass system as shown on the map dated September 22, 1999, prepared by Permittee's engineer. From April 1 to December 14 of each year, Permittee shall block any inflow into the reservoir from the Unnamed Stream by placing a steel cover plate over the inlet pipe to the reservoir. Any inflow during this period shall be bypassed unimpeded to the stream channel below the dam via the 12-inch bypass pipeline. Permittee shall not divert this bypassed water under any basis of right. From December 15 of each year to March 31 of the succeeding year, if the flow is less than 40 cubic feet per second as measured at the USGS Navarro River gage, Permittee shall block any inflow into the reservoir from the Unnamed Stream by placing a steel cover plate over the inlet pipe to the reservoir. All inflow during this condition shall be bypassed unimpeded to the stream channel below the dam via the 12-inch bypass pipeline. Permittee shall not divert this bypassed water under any basis of right.

4. Term 17 of the Permit shall be deleted and the following term added:

Fish and Wildlife Bypass, POD No. 1. For the protection of fish and wildlife and instream uses, when diverting water from POD No. 1, Permittee shall bypass the total stream flow at POD No. 1 whenever the flow in the Navarro River is less than 550 cubic feet per second (cfs) as measured

at the United States Geological Survey (USGS) gage on the Navarro River or 339 cfs as measured at the point of diversion.

5. Term 20 of the Permit shall be deleted and the following term added:

Protection of Fish from Entrainment. No water shall be diverted under this permit until the Permittee has constructed a fish screen or has proposed and constructed an alternative. The fish screen shall be to the satisfaction of the Department of Fish and Game (DFG) and shall consist of mesh having openings no larger than 5/32 inch. In lieu of such screening, perforated pipe or a plate with perforations of 5/32 inch or less in diameter may be used. Screens and/or perforated pipe shall be cleaned regularly or otherwise designed so that approach velocities of water entering the intake pipe shall not exceed 0.33 foot per second. Any alternative must comply with the DFG criteria and receive their written approval. Permittee shall submit a copy of DFG's written approval of the plans and design calculations to the Division of Water Rights within 30 days from the date of the approval. Construction, operation, and maintenance of any required facility are the responsibility of the Permittee. If the fish screens or any alternative(s) is (are) rendered inoperative for any reason, the Permittee shall notify the Chief of the Division of Water Rights immediately and shall restore the equipment as soon as possible.

6. The following term shall be added to the Permit:

Cultural Resources Protection. Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; ground stone implements (grinding slabs, mortars and pestles) and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic and metal objects; milled and split lumber; and structure and feature remains such as building foundations, privy pits, wells and dumps; and old trails. The Chief of the Division of Water Rights (Division Chief) shall be notified of the discovery and a professional archeologist shall be retained by the Permittee to evaluate the find and recommend appropriate mitigation measures. Proposed mitigation measures shall be submitted to the Division Chief for approval. Project-related activities shall not resume within 100 feet of the find until all approved mitigation measures have been completed to the satisfaction of the Division Chief.

7. The following term shall be added to the Permit:

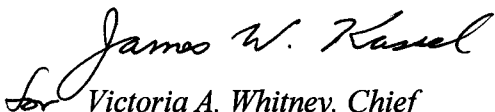
Riparian Water Use. Permittee may not divert any water for use on the place of use authorized by this permit under basis of riparian right. With the Chief of the Division of Water Right's (Division Chief) approval, this term may be modified, and Permittee may use water under basis of riparian right on the authorized place of use, provided that Permittee submits reliable evidence to the Division Chief quantifying the amount of water that Permittee likely would have used under the basis of riparian right absent the appropriation authorized by this permit. The Division Chief is hereby authorized to approve or reject any proposal by Permittee to use water under the basis of riparian right on the place of use authorized by this permit.

8. The following term shall be added to the Permit:

Water Diversion and Use Records. Permittee shall maintain records of the amount of water diverted and used to enable the State Water Resources Control Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code Section 1605.

9. All other conditions of Permit 20563, including Term 18, revised pursuant to the Division's March 22, 2000 order, and Term 22, added pursuant to that Order, are still applicable and will be included in the amended permit issued in accordance with this Order.
10. The attached Amended Permit 20563 is issued, superseding former Permit 20563 issued on October 7, 1991. The priority of Amended Permit 20563 is October 26, 1989.

STATE WATER RESOURCES CONTROL BOARD


Victoria A. Whitney, Chief
Division of Water Rights

Dated: JUL 24 2007

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

AMENDED PERMIT FOR DIVERSION AND USE OF WATER

AMENDED PERMIT 20563

Application 29594 of Dr. Larry Londer
 P.O. Box 14
 Philo, CA 95466

filed on **October 26, 1989**, has been approved by the State Water Resources Control Board (State Water Board) SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source of water

Source:		Tributary to:
1) Navarro River		Pacific Ocean
2) Unnamed Stream		Navarro River

within the County of **Mendocino**

2. Location of point of diversion

By California Coordinate System of 1927 in Zone 2	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
<u>DIVERSION TO OFFSTREAM STORAGE</u> 1) North 523,700 feet and East 1,575,400 feet	SE ¼ of SE ¼	3	14N	15W	MD
<u>STORAGE AND REDIVERSION</u> 2) North 524,200 feet and East 1,576,350 feet	SE ¼ of SE ¼	3	14N	15W	MD

3. Purpose of use	4. Place of use	Section	Township	Range	Base and Meridian	Acres
Fish and Wildlife Protection and Enhancement						
Recreation	Reservoir No. 1 within SE ¼ of SE ¼	3	14N	15W	MD	
Frost Protection						
Heat Control						
Irrigation	Net of 30 Acres within SE ¼ of SE ¼	3	14N	15W	MD	26
	NW ¼ of SE ¼	3	14N	15W	MD	2
	SW ¼ of SE ¼	3	14N	15W	MD	6
					Total	34

The place of use is shown on map filed with the State Water Board.

5. **Quantity - Storage, single.** The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed **71** acre-feet per annum to be collected from **December 15** of each year to **March 31** of the succeeding year as follows: 38 acre-feet per annum in Reservoir No. 1 and replenishment of 33 acre-feet per annum.
(0000005DM)
6. **No Offseason Storage.** This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.
(0000005I)
7. **Rate of Diversion to Offstream Storage.** The maximum rate of diversion to offstream storage shall not exceed **2.0 cubic feet per second**.
(0000005J)
8. **Commencement of Construction.** Construction work shall begin within two years of the date of this permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked.
(0000007)
9. **Complete Construction and Use.** Construction work and complete application of the water to the authorized uses shall be prosecuted with reasonable diligence and completed by December 31, 2010.
(0000009)

the Navarro River and Unnamed Stream to the period from June 15 through October 15, and
(b) limit any disturbance or removal of existing vegetation to the minimum necessary to complete construction objectives.

(0000208M)

16. **Riparian Water Use.** Permittee may not divert any water for use on the place of use authorized by this permit under basis of riparian right. With the Chief of the Division of Water Right's (Division Chief) approval, this term may be modified, and Permittee may use water under basis of riparian right on the authorized place of use, provided that Permittee submits reliable evidence to the Division Chief quantifying the amount of water that Permittee likely would have used under the basis of riparian right absent the appropriation authorized by this permit. The Division Chief is hereby authorized to approve or reject any proposal by Permittee to use water under the basis of riparian right on the place of use authorized by this permit.

(0560300a)

17. **Cultural Resources Protection.** Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; ground stone implements (grinding slabs, mortars and pestles) and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic and metal objects; milled and split lumber; and structure and feature remains such as building foundations, privy pits, wells and dumps; and old trails. The Chief of the Division of Water Rights (Division Chief) shall be notified of the discovery and a professional archeologist shall be retained by Permittee to evaluate the find and recommend appropriate mitigation measures. Proposed mitigation measures shall be submitted to the Division Chief for approval. Project-related activities shall not resume within 100 feet of the find until all approved mitigation measures have been completed to the satisfaction of the Division Chief.

(0000215)

18. **Reserved Jurisdiction--Frost Protection.** The State Water Board reserves jurisdiction to impose conditions to conform this permit to State Water Board policy on use of water for frost protection. Action by the State Water Board will be taken only after notice to interested parties and opportunity for hearing.

(0000020)

ALL PERMITS ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- A. **Reduction in License.** The amount authorized for appropriation may be reduced in the license if investigation warrants.
- B. **Progress Reports.** Permittee when requested by the State Water Board until a license is issued shall submit progress reports promptly.
- C. **Access to Project.** Permittee shall allow representatives of the State Water Board and other parties, as may be authorized from time to time by said State Water Board, reasonable access to project works to determine compliance with the terms of this permit.

(0000006)

(0000010)

(0000011)

- D. **Continuing Authority.** Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of State Water Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the State Water Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of Permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the State Water Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the State Water Board also may be exercised by imposing further limitations on the diversion and use of water by Permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the State Water Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

- E. **Water Quality Objectives.** The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Board if, after notice to Permittee and an opportunity for hearing, the State Water Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the State Water Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

- F. **Endangered Species.** This permit does not authorize any act, which results in the taking of a threatened or endangered species, or any act, which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, Permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

- G. **Water Diversion and Use Records.** Permittee shall maintain records of the amount of water diverted and used to enable the State Water Resources Control Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code Section 1605. (0000015)
- H. **Stream Alteration Agreement.** No work shall commence and no water shall be diverted, stored or used under this permit until a copy of a stream or lake alteration agreement between the State Department of Fish and Game and Permittee is filed with the Division of Water Rights. Compliance with the terms and Conditions of the agreement are the responsibility of Permittee. If a stream or lake alteration agreement is not necessary for this permitted project, Permittee shall provide the Division of Water Rights a copy of a waiver signed by the State Department of Fish and Game. (0000063)

This permit is issued and Permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefore shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

STATE WATER RESOURCES CONTROL BOARD

for James W. Kussel
Victoria A. Whitney, Chief
Division of Water Rights

Dated: JUL 24 2007

**STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS**

ORDER

Application 29594 Permit 20563

**ORDER AMENDING THE PERMIT BY
REVISING EXISTING TERMS, AND ADDING
ENDANGERED OR THREATENED SPECIES TERM**

WHEREAS:

1. Permit 20563 was issued to Betty E. Ingram and Barbara McGuinness on October 7, 1991, pursuant to Application 29594.
2. The Division of Water Rights (Division) conducted an inspection of the project covered by Permit 20563 on April 20, 1999. This inspection found that the onstream reservoir was collecting water to storage from the unnamed stream under Permit 20563, but the authorized diversions to offstream storage from the Navarro River had not been made. The inspection also found that the dam had been constructed without an outlet pipe as required by Permit 20563, and the permittee had no satisfactory measuring devices to ensure compliance with existing terms and conditions of the permit.
3. The State Water Resources Control Board (SWRCB) has determined that the permittee's proposal to install and operate a bypass system, in lieu of the outlet pipe and measuring devices required by Permit 20563 is acceptable. To ensure that the bypass system is operated in continued compliance with bypass flow conditions of the permit, permittee will be required to maintain records of the Navarro River flow, and of the dates when the bypass pipe is operated. Permit Terms 15, 17 and 18 will be modified to reflect the proposed bypass system.
3. The SWRCB will also add a permit term to prevent any act, which results in the taking of a threatened or endangered species that has been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Term 15 of Permit 20563 is deleted and replaced by the following Term 15:

Permittee shall install and maintain a bypass system that captures inflow of the unnamed stream above the reservoir and bypasses the captured flow downstream into the natural stream channel below the dam. Permittee shall install the bypass system as shown on the map dated September 22, 1999, prepared by the permittee's engineer.

From April 1 to October 31 of each year, permittee shall block any inflow into the reservoir from the unnamed stream by placing a steel cover plate over the inlet pipe to the reservoir. Any inflow during this period shall be bypassed, unimpeded, to the stream channel below the dam via the 12-inch bypass pipeline. Permittee shall not divert this bypassed water under any basis of right.

From November 1 of each year to March 31 of the succeeding year, if the flow in the Navarro River is less than 40 cubic feet per second, as measured at the USGS Navarro River gage, permittee shall block any inflow into the reservoir from the unnamed stream by placing a steel cover plate over the inlet pipe to the reservoir. All inflow, during this condition, shall be bypassed, unimpeded, to the stream channel below the dam via the 12-inch bypass pipeline. Permittee shall not divert this bypassed water under any basis of right.

2. Term 17 of Permit 20563 is revised as follows:

For the protection of fish and wildlife, permittee shall bypass a minimum of 30 cubic feet per second as measured at diversion point No. 1 on the Navarro River. The total streamflow shall be bypassed from the Navarro River whenever the flow in the Navarro River, at diversion point No. 1, is less than 30 cubic feet per second.

In lieu of the above requirement, permittee may use the USGS stream flow gage in the Navarro River at Navarro to measure bypass flows. In such case, permittee shall bypass a minimum of 40 cubic feet per second as measured at the USGS gage. The total stream flow shall be bypassed whenever the flow in the Navarro River at the USGS gage is less than 40 cubic feet per second.

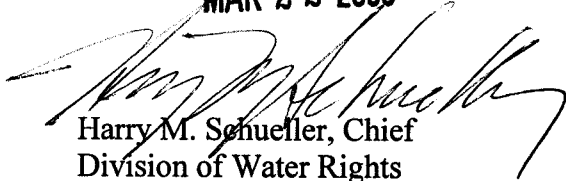
3. Term 18 of Permit 20563 is revised as follows:

No water shall be diverted under this permit from the Navarro River until the permittee has installed a device, at point of diversion No. 1, satisfactory to the SWRCB, which is capable of measuring the bypass flows required by the conditions of this permit. Said devices shall be capable of measuring required bypass flow in the Navarro River. In the event that the permittee uses the USGS gage at Navarro, a separate gage measuring Navarro River stream flow will not be necessary. Said measuring devices shall be properly maintained.

4. Term 22 of Permit 20563 is added as follows:

This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (California Fish and Game Code section 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

Dated: **MAR 22 2000**



Harry M. Schueller, Chief
Division of Water Rights

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

AMENDED PERMIT FOR DIVERSION AND USE OF WATER

AMENDED PERMIT 20563

Application 29594 of Dr. Larry Londer
 P.O. Box 14
 Philo, CA 95466

filed on **October 26, 1989**, has been approved by the State Water Resources Control Board (State Water Board) SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source of water

Source:		Tributary to:
1) Navarro River		Pacific Ocean
2) Unnamed Stream		Navarro River

within the County of **Mendocino**

2. Location of point of diversion

By California Coordinate System of 1927 in Zone 2	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
<u>DIVERSION TO OFFSTREAM STORAGE</u> 1) North 523,700 feet and East 1,575,400 feet	SE ¼ of SE ¼	3	14N	15W	MD
<u>STORAGE AND REDIVERSION</u> 2) North 524,200 feet and East 1,576,350 feet	SE ¼ of SE ¼	3	14N	15W	MD

3. Purpose of use	4. Place of use	Section	Township	Range	Base and Meridian	Acres
Fish and Wildlife Protection and Enhancement						
Recreation	Reservoir No. 1 within SE ¼ of SE ¼	3	14N	15W	MD	
Frost Protection						
Heat Control						
Irrigation	Net of 30 Acres within SE ¼ of SE ¼	3	14N	15W	MD	26
	NW ¼ of SE ¼	3	14N	15W	MD	2
	SW ¼ of SE ¼	3	14N	15W	MD	6
					Total	34

The place of use is shown on map filed with the State Water Board.

5. **Quantity - Storage, single.** The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed **71** acre-feet per annum to be collected from **December 15** of each year to **March 31** of the succeeding year as follows: 38 acre-feet per annum in Reservoir No. 1 and replenishment of 33 acre-feet per annum.
(0000005DM)
6. **No Offseason Storage.** This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.
(0000005I)
7. **Rate of Diversion to Offstream Storage.** The maximum rate of diversion to offstream storage shall not exceed **2.0 cubic feet per second**.
(0000005J)
8. **Commencement of Construction.** Construction work shall begin within two years of the date of this permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked.
(0000007)
9. **Complete Construction and Use.** Construction work and complete application of the water to the authorized uses shall be prosecuted with reasonable diligence and completed by December 31, 2010.
(0000009)

the Navarro River and Unnamed Stream to the period from June 15 through October 15, and
(b) limit any disturbance or removal of existing vegetation to the minimum necessary to complete construction objectives.

(0000208M)

16. **Riparian Water Use.** Permittee may not divert any water for use on the place of use authorized by this permit under basis of riparian right. With the Chief of the Division of Water Right's (Division Chief) approval, this term may be modified, and Permittee may use water under basis of riparian right on the authorized place of use, provided that Permittee submits reliable evidence to the Division Chief quantifying the amount of water that Permittee likely would have used under the basis of riparian right absent the appropriation authorized by this permit. The Division Chief is hereby authorized to approve or reject any proposal by Permittee to use water under the basis of riparian right on the place of use authorized by this permit.

(0560300a)

17. **Cultural Resources Protection.** Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; ground stone implements (grinding slabs, mortars and pestles) and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic and metal objects; milled and split lumber; and structure and feature remains such as building foundations, privy pits, wells and dumps; and old trails. The Chief of the Division of Water Rights (Division Chief) shall be notified of the discovery and a professional archeologist shall be retained by Permittee to evaluate the find and recommend appropriate mitigation measures. Proposed mitigation measures shall be submitted to the Division Chief for approval. Project-related activities shall not resume within 100 feet of the find until all approved mitigation measures have been completed to the satisfaction of the Division Chief.

(0000215)

18. **Reserved Jurisdiction--Frost Protection.** The State Water Board reserves jurisdiction to impose conditions to conform this permit to State Water Board policy on use of water for frost protection. Action by the State Water Board will be taken only after notice to interested parties and opportunity for hearing.

(0000020)

ALL PERMITS ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- A. **Reduction in License.** The amount authorized for appropriation may be reduced in the license if investigation warrants.
- B. **Progress Reports.** Permittee when requested by the State Water Board until a license is issued shall submit progress reports promptly.
- C. **Access to Project.** Permittee shall allow representatives of the State Water Board and other parties, as may be authorized from time to time by said State Water Board, reasonable access to project works to determine compliance with the terms of this permit.

(0000006)

(0000010)

(0000011)

- D. **Continuing Authority.** Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of State Water Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the State Water Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of Permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the State Water Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the State Water Board also may be exercised by imposing further limitations on the diversion and use of water by Permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the State Water Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

- E. **Water Quality Objectives.** The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Board if, after notice to Permittee and an opportunity for hearing, the State Water Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the State Water Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

- F. **Endangered Species.** This permit does not authorize any act, which results in the taking of a threatened or endangered species, or any act, which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, Permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

- G. **Water Diversion and Use Records.** Permittee shall maintain records of the amount of water diverted and used to enable the State Water Resources Control Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code Section 1605. (0000015)
- H. **Stream Alteration Agreement.** No work shall commence and no water shall be diverted, stored or used under this permit until a copy of a stream or lake alteration agreement between the State Department of Fish and Game and Permittee is filed with the Division of Water Rights. Compliance with the terms and Conditions of the agreement are the responsibility of Permittee. If a stream or lake alteration agreement is not necessary for this permitted project, Permittee shall provide the Division of Water Rights a copy of a waiver signed by the State Department of Fish and Game. (0000063)

This permit is issued and Permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefore shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

STATE WATER RESOURCES CONTROL BOARD

for James W. Kussel
Victoria A. Whitney, Chief
Division of Water Rights

Dated: JUL 24 2007

**STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS**

ORDER

Application 29594 Permit 20563

**ORDER AMENDING THE PERMIT BY
REVISING EXISTING TERMS, AND ADDING
ENDANGERED OR THREATENED SPECIES TERM**

WHEREAS:

1. Permit 20563 was issued to Betty E. Ingram and Barbara McGuinness on October 7, 1991, pursuant to Application 29594.
2. The Division of Water Rights (Division) conducted an inspection of the project covered by Permit 20563 on April 20, 1999. This inspection found that the onstream reservoir was collecting water to storage from the unnamed stream under Permit 20563, but the authorized diversions to offstream storage from the Navarro River had not been made. The inspection also found that the dam had been constructed without an outlet pipe as required by Permit 20563, and the permittee had no satisfactory measuring devices to ensure compliance with existing terms and conditions of the permit.
3. The State Water Resources Control Board (SWRCB) has determined that the permittee's proposal to install and operate a bypass system, in lieu of the outlet pipe and measuring devices required by Permit 20563 is acceptable. To ensure that the bypass system is operated in continued compliance with bypass flow conditions of the permit, permittee will be required to maintain records of the Navarro River flow, and of the dates when the bypass pipe is operated. Permit Terms 15, 17 and 18 will be modified to reflect the proposed bypass system.
3. The SWRCB will also add a permit term to prevent any act, which results in the taking of a threatened or endangered species that has been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Term 15 of Permit 20563 is deleted and replaced by the following Term 15:

Permittee shall install and maintain a bypass system that captures inflow of the unnamed stream above the reservoir and bypasses the captured flow downstream into the natural stream channel below the dam. Permittee shall install the bypass system as shown on the map dated September 22, 1999, prepared by the permittee's engineer.

From April 1 to October 31 of each year, permittee shall block any inflow into the reservoir from the unnamed stream by placing a steel cover plate over the inlet pipe to the reservoir. Any inflow during this period shall be bypassed, unimpeded, to the stream channel below the dam via the 12-inch bypass pipeline. Permittee shall not divert this bypassed water under any basis of right.

From November 1 of each year to March 31 of the succeeding year, if the flow in the Navarro River is less than 40 cubic feet per second, as measured at the USGS Navarro River gage, permittee shall block any inflow into the reservoir from the unnamed stream by placing a steel cover plate over the inlet pipe to the reservoir. All inflow, during this condition, shall be bypassed, unimpeded, to the stream channel below the dam via the 12-inch bypass pipeline. Permittee shall not divert this bypassed water under any basis of right.

2. Term 17 of Permit 20563 is revised as follows:

For the protection of fish and wildlife, permittee shall bypass a minimum of 30 cubic feet per second as measured at diversion point No. 1 on the Navarro River. The total streamflow shall be bypassed from the Navarro River whenever the flow in the Navarro River, at diversion point No. 1, is less than 30 cubic feet per second.

In lieu of the above requirement, permittee may use the USGS stream flow gage in the Navarro River at Navarro to measure bypass flows. In such case, permittee shall bypass a minimum of 40 cubic feet per second as measured at the USGS gage. The total stream flow shall be bypassed whenever the flow in the Navarro River at the USGS gage is less than 40 cubic feet per second.

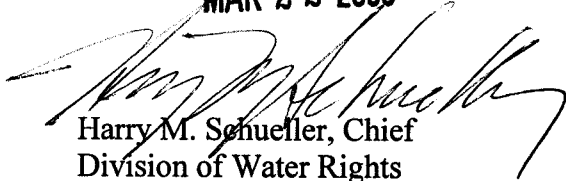
3. Term 18 of Permit 20563 is revised as follows:

No water shall be diverted under this permit from the Navarro River until the permittee has installed a device, at point of diversion No. 1, satisfactory to the SWRCB, which is capable of measuring the bypass flows required by the conditions of this permit. Said devices shall be capable of measuring required bypass flow in the Navarro River. In the event that the permittee uses the USGS gage at Navarro, a separate gage measuring Navarro River stream flow will not be necessary. Said measuring devices shall be properly maintained.

4. Term 22 of Permit 20563 is added as follows:

This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (California Fish and Game Code section 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

Dated: **MAR 22 2000**



Harry M. Schueller, Chief
Division of Water Rights

STATE OF CALIFORNIA
WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20563

Application 29594 of Betty E. Ingram and Barbara M. McGuinness

P.O. Box 14, Philo, CA 95466

filed on October 26, 1989, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

1) Navarro River

Pacific ocean

2) Unnamed Stream

Navarro River

2. Location of point of diversion:

DIVERSION TO OFFSTREAM STORAGE
1) WEST 1,250 FEET FROM SE CORNER
OF SECTION 3

40-acre subdivision
of public land survey
or projection thereof

Section

Town-
ship

Range

Base
and
Meridian

SE $\frac{1}{4}$ OF SE $\frac{1}{4}$

3

14N

15W

MD

STORAGE AND REDIVERSION
2) NORTH 300 FEET AND WEST 300 FEET
FROM SE CORNER OF SECTION 3

SE $\frac{1}{4}$ OF SE $\frac{1}{4}$

3

14N

15W

MD

County of Mendocino

3. Purpose of use:

4. Place of use:

Section

Town-
ship

Range

Base
and
Meridian

Acre

FISH AND WILDLIFE
PROTECTION AND ENHANCEMENT

RECREATIONAL

RESERVOIR NO. 1 WITHIN
SE $\frac{1}{4}$ OF SE $\frac{1}{4}$

3

14N

15W

MD

FROST PROTECTION

HEAT CONTROL

IRRIGATION

NET OF 30 ACRES WITHIN
SE $\frac{1}{4}$ OF SE $\frac{1}{4}$

3

14N

15W

MD

26

NW $\frac{1}{4}$ OF SE $\frac{1}{4}$

3

14N

15W

MD

2

SW $\frac{1}{4}$ OF SE $\frac{1}{4}$

3

14N

15W

MD

6

TOTAL

34

The place of use is shown on map on file with the State Water Resources Control Board.

WRCB 14 (6-90)

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 71 acre-feet per annum to be collected from November 1 of each year to March 31 of the succeeding year as follows: 38 acre-feet per annum in Reservoir No. 1 and replenishment of 33 acre-feet per annum. (0000005)

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (000005I)

The maximum rate of diversion to offstream storage shall not exceed 2 cubic feet per second. (000005J)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

7. Construction work shall begin within two years of the date of this permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked. (0000007)

8. Construction work shall be completed by December 31, 1994. (0000008)

9. Complete application of the water to the authorized use shall be made by December 31, 1995. (0000009)

10. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued. (0000010)

11. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

12. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)

13. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

14. The State Water Resources Control Board reserves jurisdiction to impose conditions to conform this permit to Board policy on use of water for frost protection. Action by the Board will be taken only after notice to interested parties and opportunity for hearing. (0000020)

15. Permittee shall install and maintain an outlet pipe of adequate capacity in the dam as near as practicable to the bottom of the natural stream channel in order that water entering the reservoir which is not authorized for appropriation under this permit can be released. Before starting construction, permittee shall submit plans and specifications of the outlet pipe to the Chief of the Division of Water Rights for approval. Before storing water in the reservoir, permittee shall furnish evidence which substantiates that the outlet pipe has been installed in the dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer. (0050043)

16. Permittee shall install and maintain devices satisfactory to the State Water Resources Control Board to measure the rate and quantity of water diverted into the reservoir from the Navarro River. (0060046)

17. For the protection of fish and wildlife, permittee shall bypass a minimum of 30 cubic feet per second as measured at diversion point No. 1 on the Navarro River. The total stream flow shall be bypassed from both the Navarro River and the subject Unnamed Stream whenever the flow in the Navarro River at diversion point No. 1 is less than 30 cubic feet per second.

In lieu of the above requirement, permittee may use the USGS stream flow gage in the Navarro River at Navarro to measure bypass flows. In such case, permittee shall bypass a minimum of 40 cubic feet per second as measured at the USGS gage. The total stream flow shall be bypassed from both the Navarro River and the subject Unnamed Stream whenever the flow in the Navarro River at the USGS gage is less than 40 cubic feet per second. (0140060)

18. No water shall be diverted under this permit until permittee has installed devices, satisfactory to the State Water Resources Control Board, which are capable of measuring the bypass flows required by the conditions of this permit. Said devices shall be capable of measuring both inflow and outflow from the proposed reservoir, as well as required bypass flow in the Navarro River. In the event that the permittee uses the USGS gage at Navarro, a separate gage measuring Navarro River stream flow will not be necessary. Said measuring devices shall be properly maintained. (0060062)

19. In accordance with Section 1601, 1603, and/or Section 6100 of the Fish and Game Code, no work shall be started on the diversion works and no water shall be diverted under this permit until permittee has entered into a stream or lake alteration agreement with the California Department of Fish and Game and/or the Department has determined that measures to protect fishlife have been incorporated into the plans for construction of such diversion works. Construction, operation, and maintenance costs of any required facility are the responsibility of the permittee. (0000063)

20. The intake pipe at diversion point No. 1 shall be screened to the satisfaction of the California Department of Fish and Game with mesh having openings no larger than 5/32 inch. In lieu of such screening, perforated pipe or a plate with perforations of 5/32 inch or less in diameter may be used. Screens and/or perforated pipe shall be cleaned regularly or otherwise designed so that approach velocities of water entering the intake pipe shall not exceed 0.33 foot per second. (0400300)

21. For the protection of fish and wildlife in the construction area, permittee shall a) confine all work at or below the average high-water mark of the Navarro River and Unnamed Stream to the period from June 15 through October 15, and b) limit any disturbance or removal of existing vegetation to the minimum necessary to complete construction objectives. (0400800)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: OCTOBER 07 1991

STATE WATER RESOURCES CONTROL BOARD

Roger Shuman
for Chief, Division of Water Rights